

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 939, Disciplinary Docket No. 3
Petitioner	:	
	:	No. 1 DB 2002
v.	:	
	:	Attorney Registration No. 50010
JOHN M. LARASON	:	
Respondent	:	(Bucks County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On January 8, 2002, Office of Disciplinary Counsel, Petitioner, filed a Petition for Discipline against Respondent, John M. Larason. The Petition charged Respondent with violation of the Rules of Professional Conduct based on allegations that in the course

of representing a client, Respondent submitted a falsified document to a local District Court. Respondent filed an Answer to Petition for Discipline on February 21, 2002.

A disciplinary hearing was held on September 24, 2002, before Hearing Committee 1.07 comprised of Chair Ronald A. Kovler, Esquire, and Members Margaret A. Barry, Esquire, and Earl M. Forte, III, Esquire. Respondent was represented by Stuart L. Haimowitz, Esquire.

The Committee filed a Report on August 6, 2003, recommending that the charges against Respondent be dismissed.

Petitioner filed a Brief on Exceptions on August 26, 2003. No other exceptions were filed.

This matter was adjudicated by the Disciplinary Board at the meeting of November 19, 2003.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg PA 17101, is invested, pursuant to the Rules of Disciplinary Enforcement, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania

and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent was born in 1962 and was admitted to practice law in the Commonwealth of Pennsylvania in 1987. His office is located at Makefield Executive Quarters, 301 Oxford Valley Road, Suite 1902A, Yardley PA 19067.

3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

4. Respondent has no prior history of discipline.

5. On August 4, 2000, Respondent filed a Chapter 7 Bankruptcy Petition on behalf of Angela Richmond in the United States Bankruptcy Court for the Eastern District of Pennsylvania.

6. On August 17, 2000, Respondent filed Schedules and Statements of Financial Affairs, including a Schedule F, entitled "Creditors Holding Unsecured Nonpriority Claims".

7. At various times, Ms. Richmond had utilized the services of Keystone Veterinary Hospital ("Keystone"), owned by Dr. Michael F. Tierney.

8. From August 11 – 14, 2000, Ms. Richmond used Keystone to board her pet. She subsequently cancelled boarding services for her pet for August 25 – 28, 2000. She previously had signed a contract agreeing to pay for services when rendered and to pay for reserved, cancelled boarding space.

9. Ms. Richmond did not pay Keystone for the boarding services when she picked up her pet on August 14.

10. Dr. Tierney mailed a bill to Ms. Richmond on August 24, 2000. The bill stated it was for boarding services for August 11 – 14 and for reserved space for boarding services for August 25 – 28, 2000. The total amount was \$92.55.

11. On September 7, 2000, Respondent filed an Amended Schedule F in Ms. Richmond's Chapter 7 case. This Amended Schedule did not list Keystone as an unsecured creditor.

12. A later Amendment was made to the Schedule on November 8, 2000. The Keystone bill was not included in the amendment filed by Respondent.

13. On November 17, 2000, Dr. Tierney filed a Civil Complaint against Ms. Richmond before District Justice Donald Nasshorn, District No. 07-2-7, County of Bucks, Pennsylvania, for the collection of unpaid bills and interest for claims arising on August 11 and August 25, 2000.

14. In November 2000, Ms. Richmond contacted Respondent to advise him of the Complaint.

15. On December 1, 2000, an Order was entered in Ms. Richmond's Chapter 7 case granting her a discharge under § 727 of the United States Bankruptcy Code.

16. By Notice dated January 11, 2001, a default hearing was scheduled in the District Court for February 9, 2001.

17. By Notice dated January 17, 2001, the District Court informed the parties that Ms. Richmond had given notice of her intention to present a defense and the matter was scheduled for hearing on February 27, 2001.

18. Ms. Richmond advised Respondent of her receipt of the Notices from the District Court.

19. Respondent contacted the District Justice's office concerning the hearing scheduled for February 27, 2001.

20. The District Justice's staff asked Respondent to provide documentation concerning the treatment of the Keystone bill in Ms. Richmond's Chapter 7 case.

21. On February 7, 2001, Respondent sent a facsimile transmission to "Debbie" in the office of the District Justice, captioned "Re: Angela Richmond – Bky No. 00-19656" consisting of three pages:

- a. Page one was a fax cover sheet setting forth, among other things, Respondent's letterhead, the case number of Ms. Richmond's Chapter 7 case and a reference to an attached Schedule "F" purporting to show Keystone as an unsecured creditor in Ms. Richmond's Chapter 7 case and a reference to the Discharge Order.

- b. Page two was a copy of a document captioned “SCHEDULE F – CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS (Continuation Sheet)” Sheet 5 of 8, stamped “AMENDED,” which listed “Keystone Veterinary Hospital,” as an unsecured creditor with a “disputed” claim in an amount “unknown”, and
- c. Page three was a copy of the Discharge Order.

22. The Schedule “F” that Respondent transmitted to the District Court was not the same Schedule “F” that he had filed for Ms. Richmond in the Bankruptcy Court.

23. Respondent whited out the name “LDC Collections Systems”, which was an entity that had been listed on the Schedule “F” originally filed with the Bankruptcy Court, and had typed in “Keystone Veterinary Hospital” in its place.

24. Keystone had not been identified as an unsecured creditor in the Schedule “F” originally filed by Respondent in the Chapter 7 case, nor in the amendments made to that Schedule.

25. As a result of Respondent’s submission to the District Court of the above documents, Dr. Tierney’s action against Ms. Richmond was dismissed by the District Court.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct:

1. RPC 3.3(a)(1) – A lawyer shall not knowingly make a false statement of material fact or law to a tribunal.
2. RPC 3.3(a)(4) – A lawyer shall not knowingly offer evidence that the lawyer knows to be false.
3. RPC 3.4(b) – A lawyer shall not falsify evidence.
4. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
5. RPC 8.4(d) – It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

IV. DISCUSSION

This matter is before the Disciplinary Board on a Petition for Discipline filed against Respondent charging that in the course of representing a client he submitted a falsified document to a local District Court. The Hearing Committee in this matter

determined that Respondent did not violate the Rules of Professional Conduct and recommended that the charges against Respondent be dismissed.

The Disciplinary Board must resolve whether Respondent violated any of the Rules of Professional Conduct and is therefore deserving of discipline. The evidence is sufficient to prove ethical misconduct if a preponderance of that evidence establishes the charged violations and the proof is clear and satisfactory. Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986).

The relevant evidence establishes that Respondent represented Angela Richmond in a Chapter 7 bankruptcy proceeding, which resulted in a discharge in December of 2000. Ms. Richmond advised Respondent in November 2000 that she had been sued before a District Justice by Dr. Michael Tierney. Respondent determined that Ms. Richmond's obligation to Keystone had not been listed in the Schedule of Creditors filed and debts discharged in the bankruptcy action. Respondent whited out the name of a discharged creditor on a copy of the Schedule actually filed, which was part of the bankruptcy record, and filled in Keystone's name in that creditor's place in the Schedule. Respondent advised the District Court that Ms. Richmond's debt to Keystone had been discharged in the bankruptcy proceeding by faxing to the District Court the falsified Schedule of Creditors and the Discharge Order. As a result, the District Court dismissed Dr. Tierney's case against Ms. Richmond. Respondent did not reveal to the District Court that he had altered the Schedule or that by faxing the Schedule, he was merely putting the District Court on notice that the Keystone debt was arguably dischargeable. Respondent

clearly intended the District Court to perceive, pursuant to the documents he submitted, that the Keystone debt had been discharged by the Bankruptcy Court.

By leading the District Court to believe that the Schedule he faxed was the same Schedule he filed with the Bankruptcy Court, Respondent knowingly made a false statement of material fact to a tribunal, in violation of RPC 3.3(a)(1). Respondent knowingly offered evidence he knew to be false in violation of RPC 3.3(a)(4), and falsified evidence in violation of RPC 3.4(b). Respondent's conduct also constituted dishonest conduct, in violation of RPC 8.4(c), and he engaged in conduct prejudicial to the administration of justice, which is prohibited by RPC 8.4(d).

The issue of falsities to the court has been addressed in previous cases before this Board and the Supreme Court. The sanction meted out has necessarily been dependent on the egregiousness of the underlying facts. In the matter of Office of Disciplinary Counsel v. Holston, 619 A.2d 1054 (Pa. 1993), the respondent created a false divorce decree and certificate and provided these documents to his client. When confronted by the court as to the existence of the decree, the respondent lied and stated that he did not know the origin of the documents. The Supreme Court found that the respondent's conduct in forging the documents violated RPC 3.3(a)(1) and 8.4(c) and (d). The Court disbarred this attorney.

In the matter of In re Anonymous No. 68 DB 97, 41 Pa. D. & C. 4th 38 (1998), the respondent failed to disclose a client's identity in a civil suit and made intentional false statements intended to conceal that client's identity from the trial court. The Board found

that the respondent made specific factual statements and argued factual conclusions that he knew were untrue. He created a record that gave rise to false impressions then based his arguments in a brief on the misleading records. The respondent's actions were found to have violated Rules of Professional Conduct 3.3(a)(1), 3.3(a)(4), 8.4(c) and 8.4(d). The Supreme Court imposed a public censure.

In the matter of In re Anonymous No. 85 DB 1997, No. 495 Disciplinary Docket No. 3 (Pa. March 15, 1999), the respondent made a misrepresentation to a court as to the availability of the respondent's client to appear at a hearing in an effort to stall a proceeding and gain leverage against an adversary. The Board found the respondent violated Rules of Professional Conduct 3.3(a)(1), 8.4(c) and 8.4(d). The Supreme Court imposed a public censure.

Respondent's conduct in the instant matter warrants discipline. Respondent altered a document he filed with the Bankruptcy Court and then submitted the false document to the District Court as if it was the original Bankruptcy Court document in order to obtain a positive outcome for his client. Respondent's beliefs as to whether Dr. Tierney's bills were pre- or post - petition or his beliefs that he could have filed an Amended Schedule in a closed case in the Bankruptcy Court to add Keystone's name as a creditor are irrelevant. The significant factor in this disciplinary matter is that Respondent knew that the debt to Keystone had not been discharged at the time he made a contrary representation to the District Court.

Based on the facts of this matter, the Board recommends that Respondent be suspended for a period of three months.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, John M. Larason, be Suspended from the practice of law for a period of three months.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: _____
Lori A. Flickstein, Member

Date: May 21, 2004

Board Members Saidis, Raspanti, Brown and Gentile dissent and would recommend a Public Censure.

Board Member Newman did not participate in the adjudication.

PER CURIAM:

AND NOW, this 19th day of August, 2004, upon consideration of the Report and Recommendations of the Disciplinary Board dated May 21, 2004, it is hereby

ORDERED that JOHN M. LARASON be and he is SUSPENDED from the Bar of this Commonwealth for a period of three months, and he shall comply with all the provisions of Rule 217 Pa.R.D.E.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.